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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/561,870

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Yoshitoshi Kida

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EXAMINER

PIZIALI, JEFFREY J

ART UNIT

PAPER NUMBER

2629

MAIL DATE

DELIVERY MODE

10/21/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of Non-Compliant Amendment (37 CFR 1.121)

Application No.

10/561,870

Examiner

JEFF PIZIALI

Applicant(s)

KIDA ET AL.

Art Unit

2629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 16 June 2009 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☒ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☒ C. Other See Continuation Sheet.
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____.
- ☒ 3. Amendments to the drawings:
- ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
 - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
 - ☒ C. Other See Continuation Sheet.
- ☐ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
 - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
 - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☐ E. Other: _____.
- ☒ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):
See Continuation Sheet

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

/Jeff Piziali/
Primary Examiner, Art Unit 2629

Continuation of 1(c) Other:

The Applicant is thanked for the Amendment filed 16 June 2009. However, a non-compliant matter has been discovered in the aforementioned response, requiring attention before examination may continue.

37 C.F.R. § 1.121(b)(3) requires, "The specification, other than the claims, may also be amended by submitting: (i) An instruction to replace the specification; and (ii) A substitute specification in compliance with §§ 1.125(b) and (c)."

37 C.F.R. § 1.125(b) requires, "Subject to § 1.312, a substitute specification, excluding the claims, may be filed at any point up to payment of the issue fee if it is accompanied by a statement that the substitute specification includes no new matter."

MPEP 714(II)(B) explains, "Applicants are also permitted to amend the specification by submitting a substitute specification, provided the requirements of 37 CFR 1.125(b) and (c) are met. Under 37 CFR 1.125, a clean version of the substitute specification, a separate marked up version showing the changes in the specification relative to the previous version, and a statement that the substitute specification contains no new matter are required."

1. The 16 June 2009 Amendment improperly neglects to include a statement that the substitute specification includes no new matter.

The Applicant is respectfully requested to include a statement that the substitute specification includes no new matter, as required by 37 C.F.R. § 1.121 and § 1.125.

Continuation of 3(c) Other:

37 C.F.R. § 1.121(d) requires, "One or more application drawings shall be amended in the following manner: Any changes to an application drawing must be in compliance with § 1.84 and must be submitted on a replacement sheet of drawings which shall be an attachment to the amendment document and, in the top margin, labeled 'Replacement Sheet.' Any replacement sheet of drawings shall include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is amended. Any new sheet of drawings containing an additional figure must be labeled in the top margin as 'New Sheet.' All changes to the drawings shall be explained, in detail, in either the drawing amendment or remarks section of the amendment paper."

2. The 16 June 2009 Amendment improperly replaces "1Lout" (non-inversed) with "1Lout(Inv)" and replaces "1Lout" (inversed) with "1Lout(Non-inv)" in Figures 2-3, without explaining all such changes, in detail, in either the drawing amendment or remarks section of the amendment paper.

The Applicant is respectfully encouraged to explain, in detail, in either the drawing amendment or remarks section of the amendment paper all changes to the drawings, as required by 37 C.F.R. § 1.121.

Continuation of 5 Other:

37 C.F.R. § 1.111(b) requires, "In order to be entitled to reconsideration or further examination, the applicant or patent owner must reply to the Office action. The reply by the applicant or patent owner must be reduced to a writing which distinctly and specifically points out the supposed errors in the examiner's action and must reply to every ground of objection and rejection in the prior Office action."

3. The reply filed on 16 June 2009 is not fully responsive to the prior Office action because of the following omission(s) or matter(s):

(a) The 16 June 2009 reply does not respond to an objection for failing to show Fig. 9(E) as described in the specification (see paragraph 11 on page 9 of the 20 October 2008 Office action).

(b) The 16 June 2009 reply also does not respond to an objection for failing to mention reference numeral "2Lout" in the specification (see paragraph 12 on page 10 of the 20 October 2008 Office action).

(c) The 16 June 2009 reply also does not respond to the 35 U.S.C. 102(b) ground of rejection under the Azami et al (US 2003/0011584A1) reference (see paragraph 23 on page 14 of the 20 October 2008 Office action).

The Applicant is respectfully requested to reply to every ground of objection and rejection in the prior Office action, as required by 37 C.F.R. § 1.111.

By such reasoning, this Notice of Non-Compliance is deemed necessary and proper at this time.

Continuation Sheet (PTOL-324)
/Jeff Piziali/
Primary Examiner, Art Unit 2629
19 October 2009

Application No.